

1 THE HONORABLE JOHN C. COUGHENOUR  
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9                   IN THE UNITED STATES DISTRICT COURT  
10                  FOR THE WESTERN DISTRICT OF WASHINGTON  
11                  AT SEATTLE

12 YVETTE BAILEY,

13                   Plaintiff,

14 vs.

15 ALPHA TECHNOLOGIES INCORPORATED,  
16 a Washington corporation; ALTAIR  
17 ADVANCED INDUSTRIES, INC., a  
18 Washington corporation; ABC, Inc. 1-10,  
19 defendant corporation(s) whose name(s) is/are  
20 unknown; FREDERICK KAISER and “JANE  
21 DOE” KAISER, and the marital community  
22 comprised thereof; and GRACE BORSARI and  
23 “JOHN DOE” BORSARI, and the marital  
24 community comprised thereof,

25                   Defendants.

26 NO. 2:16-cv-00727-JCC

**DECLARATION OF WILLIAM J.  
KIM IN SUPPORT OF  
PLAINTIFF’S MOTION TO  
COMPEL**

I, William J. Kim, states and declares as follows:

1. I am one of the attorneys of record for Plaintiff Yvette Bailey (“Bailey”) in  
25 this matter.

26 DECLARATION OF WILLIAM J. KIM IN  
SUPPORT OF PLAINTIFF’S MOTION TO  
COMPEL – 1

Case No. 2:16-cv-00727-JCC

**HKM EMPLOYMENT ATTORNEYS LLP**  
600 Stewart Street, Suite 901  
Seattle, Washington 98101  
(206) 838-2504

1       2. I am over the age of majority, am competent to testify in this manner, and  
2 the following is based upon my personal knowledge.

3       3. Bailey served her first set of discovery requests to Defendants on June 22,  
4 2016. In those requests, she specifically requested that ESI be produced in its native  
5 format, which is how ESI is maintained in the ordinary course of business. Attached as  
6 **Exhibit A** are true and accurate copies of Plaintiff's First Set of Interrogatories and  
7 Requests for Production to Defendant Alpha Technologies, Inc. Attached as **Exhibit B** are  
8 true and accurate copies of Plaintiff's First Set of Interrogatories and Requests for  
9 Production to Defendant Altair Advanced Industries, Inc. Attached as **Exhibit C** are true  
10 and accurate copies of Plaintiff's First Set of Interrogatories and Requests for Production  
11 to Defendant Frederick Kaiser. Attached as **Exhibit D** are true and accurate copies of  
12 Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Grace  
13 Borsari.

14       4. Defendants provided answers and production of documents on July 22,  
15 2016. Attached as **Exhibit E** are true and accurate copies of Responses and Objections to  
16 Plaintiff's First Set of Interrogatories and Requests for Production to Defendant Alpha  
17 Technologies, Inc. Attached as **Exhibit F** are true and accurate copies of Responses and  
18 Objections to Plaintiff's First Set of Interrogatories and Requests for Production to  
19 Defendant Altair Advanced Industries, Inc. Attached as **Exhibit G** are true and accurate  
20 copies of Responses and Objections to Plaintiff's First Set of Interrogatories and Requests  
21 for Production to Defendant Frederick Kaiser. Attached as **Exhibit H** are true and accurate  
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DECLARATION OF WILLIAM J. KIM IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
COMPEL – 2  
Case No. 2:16-cv-00727-JCC

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1 copies of Responses and Objections to Plaintiff's First Set of Interrogatories and Requests  
2 for Production to Defendant Grace Borsari.

3       5. The parties conducted a discovery conference pursuant to Fed. R. Civ. P.  
4 37(a)(1) and W.D. Wash. LCR 37.1 on September 14, 2016 regarding the format ESI  
5 should be produced. To convey the importance of native file production, Plaintiff's  
6 retained computer forensic expert Ms. Allison Goodman was present during the  
7 conference. Aside from certain documents such as excel or PowerPoints, Defendants  
8 refused to produce in native as requested.

9       6. The parties conducted a second discovery conference pursuant to Fed. R.  
10 Civ. P. 37(a)(1) and W.D. Wash. LCR 37.1 on October 14, 2016 to discuss Defendants'  
11 objections and responses to Plaintiff's discovery requests. With respect to Interrogatory  
12 No. 15 which asked identification of all lawsuits, Plaintiff asked Defendants to disclose the  
13 number of lawsuits to consider narrowing down the request. Defendants did not disclose  
14 the number. Defendants then restated their arguments in a letter dated November 2, 2016  
15 via letter. Attached as **Exhibit I** are true and accurate copies of letter correspondence from  
16 Defendants' counsel indicating their final positions regarding their discovery responses  
17 and objections.

18       7. On December 15, 2016, Defendants Alpha and Altair supplemented their  
19 responses. Attached as **Exhibit J** are true and accurate copies of Supplemental Responses  
20 and Objections to Plaintiff's First Set of Interrogatories and Requests for Production to  
21 Defendant Alpha Technologies, Inc. Attached as **Exhibit K** are true and accurate copies of  
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DECLARATION OF WILLIAM J. KIM IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
COMPEL – 3  
Case No. 2:16-cv-00727-JCC

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1 Supplemental Responses and Objections to Plaintiff's First Set of Interrogatories and  
2 Requests for Production to Defendant Altair Advanced Industries, Inc.

8. Even after the parties' discovery conferences, multiple e-mail exchanges  
4 regarding the format of ESI production had occurred. Attached as **Exhibit L** are true and  
5 accurate copies of e-mail correspondence regarding ESI format production.  
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I certify (or declare) under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED this 26<sup>th</sup> day of April, 2017 at Seattle, Washington.

s/William J. Kim  
William J. Kim

DECLARATION OF WILLIAM J. KIM IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
COMPEL - 4  
Case No. 2:16-cv-00727-JCC

Case No. 2:16-cv-00727-JCC

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2                   **CERTIFICATE OF SERVICE**  
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4               I certify that on April 26, 2017, I electronically filed the foregoing document with  
5 the Clerk of the Court using the CM/ECF system, which will send notification of such  
6 filing to the following:

7               Kevin Hamilton  
8               William B. Stafford  
9               Tobias S. Piering  
10              Perkins Coie LLP  
11              1201 Third Avenue, Suite 4900  
12              Seattle, WA 98101-3099  
13              khamilton@perkinscoie.com  
14              bstafford@perkinscoie.com  
15              tpiering@perkinscoie.com  
16              *Attorneys for Defendants*

17              I certify under penalty of perjury that the foregoing is true and correct.

18              \_\_\_\_\_  
19              /s/ Angela Tracy  
20              Angela Tracy, Legal Assistant  
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DEclaration of WILLIAM J. KIM IN  
SUPPORT OF PLAINTIFF'S MOTION TO  
COMPEL – 5  
Case No. 2:16-cv-00727-JCC

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